

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

David Hill,)	Civil Action No.: 7:08-3985-HMH-BHH
)	
Appellant,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Wachovia Bank NA, Chapter 13)	
Trustee's Office,)	
)	
Appellees.)	

Notice of this bankruptcy appeal was filed on December 11, 2008. The appellant's brief, therefore, was due in this case on December 29, 2008. See Fed. Bankr. R. P. 8009. As the appellant is proceeding *pro se*, an order was issued on January 8, 2009, giving appellant additional time to file his brief, through January 30, 2009. [Doc. 6.] Appellant was advised that if the brief was not filed by that date, a status hearing would be scheduled. *Id.* On February 17, 2009, after proper notice to the parties, a status hearing was held, but the appellant did not appear and no brief has been filed.

As the appellant is proceeding *pro se*, the court filed a second order on February 18, 2009, giving the appellant through March 4, 2009, to file his brief. This order was mailed to the appellant at his last known address of 8 Lindseybrook Trail, Mauldin, SC 29662. The envelope containing this order was returned as undeliverable on February 26, 2009. Out of an abundance of caution, the order was re-mailed to the appellant on February 26, 2009. This second mailing was returned on March 5, 2009, also as undeliverable.

Based on the foregoing, it appears the appellant no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for

failure to prosecute pursuant to Fed. R. Civ. P. 41(b) and failure to comply with this Court's orders, see *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

March 10, 2009

Greenville, South Carolina